

## ADDITIONAL COSPONSORS

S. 894

At the request of Mrs. LINCOLN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 894, a bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of idling reduction systems for diesel-powered on-highway vehicles.

S. 1827

At the request of Mr. COCHRAN, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1827, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA-PD plans under such part.

S. 2062

At the request of Mr. DORGAN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2062, a bill to amend the Native American Housing Assistance and Self-Determination Act of 1996 to reauthorize that Act, and for other purposes.

S. 2495

At the request of Mr. BIDEN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 2495, a bill to amend title 18, United States Code, and the Federal Rules of Criminal Procedure with respect to bail bond forfeitures.

S. 2799

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2799, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 3061

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3061, a bill to authorize appropriations for fiscal years 2008 through 2011 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

S. 3134

At the request of Mr. NELSON of Florida, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 3134, a bill to amend the Commodity Exchange Act to require energy commodities to be traded only on regulated markets, and for other purposes.

S. 3144

At the request of Mr. BOND, his name was added as a cosponsor of S. 3144, a bill to amend part B of title XVIII of the Social Security Act to delay and

reform the Medicare competitive acquisition program for purchase of durable medical equipment, prosthetics, orthotics, and supplies.

At the request of Mr. BAUCUS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 3144, *supra*.

S. 3167

At the request of Mr. BURR, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 3167, a bill to amend title 38, United States Code, to clarify the conditions under which veterans, their surviving spouses, and their children may be treated as adjudicated mentally incompetent for certain purposes.

S. 3175

At the request of Mr. LIEBERMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 3175, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster hazard mitigation program, to make technical corrections to that Act, and for other purposes.

S. 3217

At the request of Mr. SPECTER, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 3217, a bill to provide appropriate protection to attorney-client privileged communications and attorney work product.

S. RES. 499

At the request of Mr. SPECTER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 499, a resolution urging Palestinian Authority President Mahmoud Abbas, who is also the head of the Fatah Party, to officially abrogate the 10 articles in the Fatah Constitution that call for Israel's destruction and terrorism against Israel, oppose any political solution, and label Zionism as racism.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. SCHUMER, Ms. STABENOW, Mr. DURBIN, Ms. LANDRIEU, Ms. COLLINS, Mrs. CLINTON, Mr. HARKIN, Mr. DODD, and Mr. SANDERS):

S. 3223. A bill to establish a small business energy emergency disaster loan program; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, with the temperatures pushing 90 degrees here in Washington, today might strike some as an odd time to introduce a bill on heating fuels. But for those of us who know the costs of a cold winter ahead, the real fuel crisis is now—and the clock is ticking when it comes to Washington's ability to step in and help before it's too late and this problem becomes a crisis and another state of emergency is declared on Massachusetts. Now and in the coming weeks, families and businesses will be sitting

down to sign their heating fuel contracts, with record prices creating impossible decisions between feeding one's family and heating the home, and laying off employees or going further into debt.

This week the Committee on Small Business and Entrepreneurship held a hearing entitled "Examining Solutions to Cope with the Rise in Home Heating Oil Prices" in which we heard testimony on the effect the historic spike in heating oil prices is having on small businesses. Nationally, 7.7 million households heat their homes with home heating oil. In Massachusetts, more than 963,000 households use home heating oil delivered by over 800 distributors, many of them small businesses.

It is reality—not rhetoric—that price spikes will force people to decide whether to feed their families or heat their homes, and will force small businesses to layoff employees and in some cases shut their doors. The Energy Information Administration is projecting that heating oil prices will be up 56 percent in 2009 as compared with 2007, and even that estimate may be modest. Prices for a gallon of home heating oil sit at over \$4.50 today compared with less than a dollar 10 years ago. That means consumers will have to pay thousands more than ever before to heat their homes this winter, and small businesses who rely on these and other fuels to heat their businesses will face skyrocketing bills at a time when the economy and the credit crunch are already squeezing their bottom lines.

While oil companies are reaping record profits, small business owners are hard hit by these price spikes. Most heating oil distribution is done by small businesses who are victimized many times over by the rising price of fuel. Their accounts receivables go through the roof—which isn't a pretty picture, especially during a credit crunch. Their customers have a difficult time paying their bills and rising credit card fees eat into their margins. The volatility in the market also causes price hedging—a practice of locking into a price in order to buy certainty—to rise from a few cents a gallon a few years ago to upwards of 40 cents a gallon today, rendering almost useless this tool that used to be helpful in giving distributors and consumers an insurance policy against more crippling prices during the winter when the market pressures were greater. These problems are affecting small businesses who work with other heating fuels as well, such as kerosene, propane, and natural gas.

There are many viable and successful small businesses that need assistance to get through times when heating fuel prices spike. This is why I, along with Senator SNOWE, am reintroducing the Small Business Energy Emergency Relief Act to provide assistance through affordable, low-interest Small Business Administration disaster loans to small businesses that have suffered economic

harm and can't pay their bills because of the huge price increases in heating oil, propane, kerosene, and natural gas. Whether they are small fuel distributors or business owners who rely on those fuels to heat their stores, many small businesses are dependent on these four heating fuels.

This bill would amend the Small Business Act to authorize the Small Business Administration to make disaster loans of up to \$1.5 million, and an exception can be made by the Administrator for higher loans if the borrower constitutes a major source of employment, to assist small businesses that have suffered substantial economic injury as the result of a significant increase in the price of kerosene, propane, natural gas, or heating oil. Heating fuel prices would have to go up by 50 percent over the average price during the same 10-day period in the previous 2 years to trigger an energy emergency declaration from the President or the Administrator, though a Governor of a State that has experienced a significant rise in the price of home heating oil may also request assistance for small businesses in that State.

The qualifications for an economic injury disaster loan are the same as for economic injury loans for a physical disaster. A small business must have demonstrated economic injury as a result of the price increases; demonstrate the inability to pay its bills; be unable to locate financing elsewhere; and demonstrate the ability to repay the loan. As in years past, the bill retains a provision authored by Senators HARKIN and KOHL to amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make loans to farm operations that qualify as a small business and that have suffered substantial economic injury on or after October 1, 2007, as the result of a significant increase in energy costs in connection with an energy emergency declaration by the President or the Secretary.

This bill has been a collaborative process over many years, which is demonstrated by other provisions that we have retained, including one by Senator LEVIN to allow small businesses to use the proceeds of the loans not only for working capital to recover from the economic injury of the energy costs but also to convert their systems to use alternative or renewable energy sources. That was complimented by a provision added by Senator ENZI to allow the proceeds for cogeneration systems.

This bill was originally introduced in the 107th Congress as S. 295 and it passed the full Senate with 34 cosponsors. Since then, it has passed the Senate twice more, both times in the 109th Congress, once as an amendment to H.R. 6, the Energy Policy Act of 2005, and once as part of a larger Katrina relief amendment to H.R. 2862, only to be dropped in conference both times. Furthermore, this bill has passed the Com-

mittee on Small Business and Entrepreneurship several times, including in 2006 as a stand alone bill and in 2007 as part of the Small Business Disaster Response and Loan Improvements Act.

With heating fuel prices soaring to never before seen heights, and with no end in sight, it is time we pass this bill and make it law. Small businesses across the country already operate on razor thin margins, and the spike in heating fuels this winter will push many otherwise successful businesses over the edge and into bankruptcy. With the credit markets tightening, giving these small businesses low interest loans to help them make it through the winter is a common sense, low cost way to help small businesses, save jobs, and secure the backbone of our economy.

I would like to thank Senator SNOWE for her tireless work on these issues and for cosponsoring this bill, and I ask that this statement is printed for the record. I would also like to thank Senators KENNEDY, SCHUMER, STABENOW, LANDRIEU, DURBIN, COLLINS, CLINTON, HARKIN, DODD, and SANDERS for joining me as original cosponsors, and I ask that all Senators join me in supporting this bill that will help save small businesses across this country who are struggling to adjust to the world of skyrocketing energy prices that we must deal with today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3223

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Energy Emergency Relief Act of 2008".

#### SEC. 2. DEFINITIONS.

In this Act—

(1) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof, respectively; and

(2) the term "small business concern" has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

#### SEC. 3. FINDINGS.

Congress finds that—

(1) a significant number of small business concerns in the United States, nonfarm as well as agricultural producers, use heating oil, natural gas, propane, or kerosene to heat their facilities and for other purposes;

(2) a significant number of small business concerns in the United States sell, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) significant increases in the price of heating oil, natural gas, propane, or kerosene—

(A) disproportionately harm small business concerns dependent on those fuels or that use, sell, or distribute those fuels in the ordinary course of their business, and can cause them substantial economic injury;

(B) can negatively affect the national economy and regional economies;

(C) have occurred in the winters of 1983 to 1984, 1988 to 1989, 1996 to 1997, 1999 to 2000, 2000

to 2001, 2004 to 2005, 2006 to 2007, and 2007 to 2008; and

(D) can be caused by a host of factors, including international conflicts, global or regional supply difficulties, weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to, and beyond the control of, those who own and operate small business concerns.

#### SEC. 4. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (9) the following:

"(10) ENERGY EMERGENCIES.—

"(A) DEFINITIONS.—In this paragraph—

"(i) the term 'base price index' means the moving average of the closing unit price on the New York Mercantile Exchange for heating oil, natural gas, or propane for the 10 days, in each of the most recent 2 preceding years, which correspond to the trading days described in clause (ii);

"(ii) the term 'current price index' means the moving average of the closing unit price on the New York Mercantile Exchange, for the 10 most recent trading days, for contracts to purchase heating oil, natural gas, or propane during the subsequent calendar month, commonly known as the 'front month';

"(iii) the term 'heating fuel' means heating oil, natural gas, propane, or kerosene; and

"(iv) the term 'significant increase' means—

"(I) with respect to the price of heating oil, natural gas, or propane, any time the current price index exceeds the base price index by not less than 50 percent; and

"(II) with respect to the price of kerosene, any increase which the Administrator, in consultation with the Secretary of Energy, determines to be significant.

"(B) AUTHORIZATION.—The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a significant increase in the price of heating fuel occurring on or after October 1, 2007.

"(C) INTEREST RATE.—Any loan or guarantee extended under this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

"(D) MAXIMUM AMOUNT.—No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such borrower constitutes a major source of employment in its surrounding area, as determined by the Administrator, in which case the Administrator, in the discretion of the Administrator, may waive the \$1,500,000 limitation.

"(E) DECLARATIONS.—For purposes of assistance under this paragraph—

"(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; and

"(ii) if no declaration has been made under clause (i), the Governor of a State in which a significant increase in the price of heating fuel has occurred may certify to the Administration that small business concerns have suffered economic injury as a result of such

increase and are in need of financial assistance which is not otherwise available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

“(F) USE OF FUNDS.—Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, cogeneration, solar energy, wind energy, or fuel cells.”.

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting “, significant increase in the price of heating fuel” after “civil disorders”; and

(2) by inserting “other” before “economic”.

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which guidelines are published by the Administrator under section 6.

#### SEC. 5. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking “operations have” and inserting “operations (i) have”; and

(B) by inserting before “: *Provided*,” the following: “, or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after October 1, 2007, as the result of a significant increase in energy costs or input costs from energy sources occurring on or after October 1, 2007, in connection with an energy emergency declared by the President or the Secretary”;

(2) in the third sentence, by inserting before the period at the end the following: “or by an energy emergency declared by the President or the Secretary”;

(3) in the fourth sentence—

(A) by inserting “or energy emergency” after “natural disaster” each place that term appears; and

(B) by inserting “or declaration” after “emergency designation”.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) shall be available to carry out the amendments made by subsection (a) to meet the needs resulting from energy emergencies.

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which guidelines are published by the Secretary of Agriculture under section 6.

#### SEC. 6. GUIDELINES AND RULEMAKING.

(a) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator and the Secretary of Agriculture shall each issue such guidelines as the Administrator or the Secretary, as applicable, determines to be necessary to carry out this Act and the amendments made by this Act.

(b) RULEMAKING.—Not later than 30 days after the date of enactment of this Act, the Administrator, after consultation with the Secretary of Energy, shall promulgate regulations specifying the method for determining a significant increase in the price of

kerosene under section 7(b)(10)(A)(iv)(II) of the Small Business Act, as added by this Act.

#### SEC. 7. REPORTS.

(a) SMALL BUSINESS ADMINISTRATION.—Not later than 12 months after the date on which the Administrator issues guidelines under section 6, and annually thereafter until the date that is 12 months after the end of the effective period of section 7(b)(10) of the Small Business Act, as added by this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the assistance made available under section 7(b)(10) of the Small Business Act, as added by this Act, including—

(1) the number of small business concerns that applied for a loan under such section and the number of those that received such loans;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that received such loans are located;

(4) the type of heating fuel or energy that caused the significant increase in the cost for the participating small business concerns; and

(5) recommendations for ways to improve the assistance provided under such section 7(b)(10), if any.

(b) DEPARTMENT OF AGRICULTURE.—Not later than 12 months after the date on which the Secretary of Agriculture issues guidelines under section 6, and annually thereafter until the date that is 12 months after the end of the effective period of the amendments made to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) by this Act, the Secretary shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Small Business and the Committee on Agriculture of the House of Representatives, a report that—

(1) describes the effectiveness of the assistance made available under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); and

(2) contains recommendations for ways to improve the assistance provided under such section 321(a), if any.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 606—DESIGNATING JUNE 27, 2008, AS NATIONAL HIV TESTING DAY

Mrs. CLINTON submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 606

Whereas the Centers for Disease Control and Prevention (referred to in this preamble as “the CDC”) found that at the end of 2003, between 1,039,000 and 1,185,000 individuals in the United States were HIV positive, an increase from the estimated 850,000 to 950,000 such individuals at the end of 2002;

Whereas the CDC estimated that at the end of 2006, African-Americans represented 49 percent of all individuals living with HIV/AIDS, Whites represented 30 percent, and Hispanics represented 18 percent;

Whereas the CDC further found that at the end of 2006, men accounted for nearly 73 percent of all individuals living with HIV/AIDS and women represented more than 26 percent;

Whereas the CDC estimated that from the beginning of the epidemic through 2006, 565,927 individuals in the United States have died of AIDS;

Whereas the CDC has determined that the leading cause of HIV infection is male-to-male sexual contact, followed by heterosexual contact and injection drug use;

Whereas the CDC has estimated that during the 10-year period beginning in 1998, the rate of new infections in the United States has remained at approximately 40,000 annually, with no decline;

Whereas individuals at high risk of acquiring HIV are also often at high risk of acquiring other sexually transmitted infections;

Whereas a 2008 report from the CDC estimated that in the United States, 1 in 4 young women and nearly 1 in 2 young African-American women between the ages of 14 and 19 have a sexually transmitted infection;

Whereas the CDC estimates that about 25 percent of all HIV-positive individuals are unaware of their status;

Whereas the CDC reports that when infected individuals knew their status, they were more likely to practice HIV risk-reduction behaviors;

Whereas the CDC reported that in 2005, 40 percent of those individuals diagnosed as HIV-positive were later diagnosed with AIDS within 1 year of their HIV test;

Whereas the CDC reports that early knowledge of HIV status is important for connecting HIV-positive individuals with medical care and services that can reduce mortality and prevent the onset of AIDS;

Whereas a 2004 survey by the Kaiser Family Foundation found that many individuals in the United States wanted more information about HIV, including the different types of HIV tests available, testing costs, test result confidentiality, and testing locations;

Whereas African-Americans and Latinos are much more likely than Whites to say they need more information about HIV testing;

Whereas anxieties, misconceptions, and stigma have been traditionally associated with HIV/AIDS and HIV testing;

Whereas the most commonly used HIV tests require a 2 week waiting period for a diagnosis, and such a waiting period contributes to the anxiety surrounding HIV testing that discourages individuals from receiving their diagnosis;

Whereas the CDC estimated that in 2004, among those who took an HIV test at sites funded by the CDC, 22 percent did not return for their test results;

Whereas rapid test kits approved by the Food and Drug Administration have made HIV testing easier, more accessible, and less invasive, while delivering results within a single day;

Whereas prevention counseling is an essential part of HIV testing, and when conducted according to established CDC guidelines, has been shown to be effective at producing individual behavioral change;

Whereas the National Association of People with AIDS, founded in 1983, is the oldest coalition of people living with HIV/AIDS, and advocates on behalf of all people living with HIV/AIDS;

Whereas National HIV Testing Day is an annual campaign introduced in 1995 and produced by the National Association of People with AIDS to encourage individuals to seek out and receive voluntary HIV counseling and testing;

Whereas the theme of National HIV Testing Day 2008 is, “Take the test, take control”;

Whereas the Advancing HIV Prevention Initiative of the CDC emphasizes the importance of HIV testing;